

MINUTES

MONTANA HOUSE OF REPRESENTATIVES 57th LEGISLATURE - REGULAR SESSION COMMITTEE ON BUSINESS AND LABOR

Call to Order: By **CHAIRMAN JOE MCKENNEY**, on February 2, 2001 at 8:00 A.M., in Room 172 Capitol.

ROLL CALL

Members Present:

Rep. Joe McKenney, Chairman (R)
Rep. Rod Bitney, Vice Chairman (R)
Rep. Gary Matthews, Vice Chairman (D)
Rep. Sylvia Bookout-Reinicke (R)
Rep. Roy Brown (R)
Rep. Nancy Fritz (D)
Rep. Dave Gallik (D)
Rep. Kathleen Galvin-Halcro (D)
Rep. Dennis Himmelberger (R)
Rep. Rick Laible (R)
Rep. Bob Lawson (R)
Rep. John Musgrove (D)
Rep. William Price (R)
Rep. Allen Rome (R)
Rep. Donald Steinbeisser (R)
Rep. Brett Tramelli (D)
Rep. James Whitaker (R)

Members Excused: Rep. Carol C. Juneau (D)
Rep. Jim Keane (D)

Members Absent: None.

Staff Present: Gordon Higgins, Legislative Branch
Jane Nofsinger, Committee Secretary

Please Note: These are summary minutes. Testimony and discussion are paraphrased and condensed.

Committee Business Summary:

Hearing(s) & Date(s) Posted: HB389, HB399, HB406, 1/25/2001
Executive Action: HB437, HB426

HEARING ON HB406

Sponsor: REP. KIM GILLAM, HD11, Billings

Proponents: Mary Hernandez, American Diabetes Assn.
Dr. Fred Gunville, Pediatrician, Billings
Michelle Lee, HD26, Livingston
Timer Moses, self
Karen Moses, self
Kim Heist, self
Jean Nelson-Dean, self
Jan Van Riper, State Auditor's Office
Jim Duncan, Deaconess Billings Clinic
Sami Butler, Montana Nurses Assn.
Karen Gransbery, Registered Nurse
Jani McCall, Deaconess Billings Clinic
Tom Clinch, New West Health Services
Tiffany Rosell, self

Opponents: Susan Witte, Blue Cross Blue Shield
Scott Asay, MEWAS
Page Dringman, HIAA
Al Pontrelli, MAIAFA
Don Allen, MBLC

Opening Statement by Sponsor:

REP. KIM GILLAM, HD11, Billings, explained to the committee if they passed this bill they would be joining 43 other states with similar legislation. The bill creates improved conditions for self-management, treatment, training and limited supplies for diabetics. She noted there is a high incidence of diabetes in Montana. She cited studies which showed diabetics lived longer and healthier lives when they had access to training and supplies. She said in the past diabetes was called "the silent killer." She told the committee that recent developments had led to improved ability for self-management of the disease, however, the supplies and training were not covered by most health insurance and the bill would provide it. She presented the bill in an amended form to the committee. **EXHIBIT (buh27a01)**

Proponents' Testimony:

Ms. Hernandez said that one out of 17 Montanans has diabetes. She said the bill asked that diabetic medical necessities such as insulin, oral medications, needles, test strips, and education for self-management be covered by health insurance. She said good

care of diabetes helps prevent other diseases such as kidney, heart, eye and circulatory disease.

{Tape : 1; Side : A; Approx. Time Counter : 12.1}

Dr. Gunville told the committee he developed diabetes in medical school. He has practiced as a pediatrician for 28 years. He told of a study which was begun in 1985 and completed in 1993. The study showed there was a significant improvement in the diabetics who tested themselves every day and learned to properly care for themselves. He said the group which received only occasional shots or blood tests had an increase of incidences of blindness, kidney and heart disease and amputation. He said technology had greatly improved diabetic treatment in the past 10 years.

Ms. Lee stated she had drafted her own bill for coverage of diabetic supplies before she learned about this one. She said she knew her constituents were in favor of such a bill.

Ms. Larson said she was a certified dietician and diabetes educator. Improving glucose control makes a big difference in the number of complications experienced by diabetics, she said. This care also improves productivity and decreases absenteeism of diabetic workers. She reminded the committee 43 other states have this type of legislation and Montana needs to catch up.

Mr. Moses told the committee he was diagnosed 2 ½ years ago as a diabetic when he was 10. Since he had started taking insulin he has grown 5 inches and gained 47 pounds. He demonstrated the use of the insulin needle and test strips, showing the committee how he pricked his finger to get blood. He told them he does this two or three times a day. He explained how he used a different needle and insulin for his breakfast shot than other times of the day.

Mrs. Moses said she was Timer's mother and also served on the school board in Billings for 7 years. She said in that position she had learned nothing about diabetic education and it was not available in school. She said if a person had a broken leg or was taking chemotherapy they did not need to know how to handle the disease. The same is not true of diabetes, she said. Diabetics need to learn to manage their own disease and their disease can be fatal if it is not managed.

Ms. Heist said she was diagnosed 3 ½ years ago and was shocked because there is no diabetes in her family. She was told then that she was lucky because of the improvements in supplies and medicines available. She said she needs to test at least 4 times a day and sometimes up to 8 times a day. She takes a shot at every meal and one at night. Since moving to Montana, her

insurance policy has a \$2000 deductible and she pays a \$200 monthly premium, but her diabetic supplies are not covered. Her insulin supplies are \$191 month. She noted that had she been diagnosed while living in Montana, she would not have even received the type of education she received in the other state because that, too, was covered by her health insurance. She said the test strips are so expensive she does not test as often as she should because of the cost. She said she would love to have an insulin pump but cannot afford the \$5000 cost.

Ms. Nelson-Dean said her family had a history of diabetes. Her son was born prematurely and stayed in the hospital for a lengthy time. The hospital had to write off \$25,000 of the bill. However, after proper education, her daughter was born without any complications. She said she cannot go without supplies and sometimes she has to charge the supplies on her Visa. She told the committee she did choose to buy a \$5000 insulin pump and that it is supposed to extend her life five additional years.

Ms. Van Riper said her office supported the bill for all of these human reasons. She said good health is cost efficient. She added cost efficiency brings down premium price. This bill will bring Montana in line with other states, she said.

Mr. Duncan said his organization had raised \$200,000 to help those diabetics without funds. He said he was proud of his group's efforts but they could use all the help they could get.

Mr. Butler noted that diabetes is the seventh leading cause of death in America. He said diabetics must have access to supplies and education.

Mr. Gransbery said the test strips cost 65 cents and are used each time the blood is tested, which is 4-8 times a day. She explained she became a diabetic educator six years ago and thinks to be diagnosed in the 21st century is wonderful. She said education and learning to manage the tools is the responsibility of the patient. She said she sees 8-10 patients a day and they are appreciative and receptive. She told the committee that 55,000 Montanans are counting on them. She concluded by saying she is proud to be a part of her patient's good health.

Ms. McCall said she was a diabetic and an insulin pump user. She noted she has only been in the emergency room one time in five years. She also told the committee that the Montana Hospital Assn. approved of the bill, but their representative, John Flint, could not be at the hearing.

Mr. Clinch said their group typically does not support mandates, however, they were particularly in favor of the educational aspect of this bill.

Ms. Rosell said she has had diabetes for 5 ½ years. She gives her own insulin injections every day and tests her blood sugar. She said these supplies cost a lot and this bill would help a lot of people if it passes.

Opponents' Testimony:

Ms. Witte said they had originally opposed the bill but could support it with the amendment offered. She said her policies pay for most supplies and the education component. She said they are also one of the few companies which pay for tele-med communication.

Mr. Asay said he had questions concerning multiple employers, welfare arrangements and federal regulations. He was worried the bill might attempt to regulate in a manner not consistent with these situations. **EXHIBIT (buh27a02)**

Ms. Dringman opposes the bill in its current form. She said with amendments they may be able to support the bill. She called the definition of "medical necessity" very broad. She noted the 43 other states mentioned previously did not use this broad language. She said state mandates had increased 25-fold in the last few years while health care costs continue to rise. She would support the bill if the amendments were adopted.

Mr. Pontrelli opposed the mandate because he said it would increase premiums. He added he could support the bill with the amendments.

Mr. Allen was concerned with the broadness of the bill, and said it would be open-ended and drive up costs. He said he could support the bill with amendments.

{Tape : 2; Side : A; Approx. Time Counter : 4}

Informational Testimony:

Joyce Brown, State Employees Benefit Plan, said the bill did not cover the state, but she would have opposed it if it had. She would not have opposed it because she disagreed with the bill, because she knew diabetes management was critical. She said the state would have wanted the flexibility to provide diabetic education as the state saw fit.

Questions from Committee Members and Responses:

REP. PRICE asked **Ms. Gillam** if Section 5 intended to exclude state employees. **Ms. Gillam** replied it did.

REP. BOOKOUT-REINICKE asked **Mr. Clinch** if he supported the bill in its current form. **Mr. Clinch** said yes because his understanding was it included the amendment. If that changed he would take a second look.

Closing by Sponsor:

REP. GILLAM thanked the committee for sharing the personal side of diabetes. She told them her husband was a rehabilitative physician and he saw every day the result of non-managed care and lack of access to equipment and supplies. She said Montana had higher than the national incidence of diabetes. She told the committee she wanted to work with them to get the bill passed.

{Tape : 2; Side : A; Approx. Time Counter : 14}

HEARING ON HB389

Sponsor: **REP. BOB LAWSON, HD80, Whitefish**

Proponents: **Lois Smith, self**

Mary Smith, self

Stuart Daggert, Montana Manufactured Housing and RV's

Alan Severson, Ponderosa Homes

Opponents: None

Opening Statement by Sponsor:

REP. BOB LAWSON, HD80, Whitefish, said the bill requires that manufactured homes be installed according to the manufacturer's instructions, or if those are not available, according to the state code. The bill was brought to his attention, he said, by some of his constituents. He said he had submitted a bill on this issue last session which was too broad. He noted that HB389 as presented today was modeled after states around Montana. HB389 includes some definitions, sets up administration, establishes fees, certification and time lines. He said the bill is entirely self-funding. He noted there were some "friendly" amendments for the bill.

{Tape : 2; Side : A; Approx. Time Counter : 24}

Proponents' Testimony:

Ms. Smith presented a written statement of Kalispell individuals who were unable to attend the hearing. **EXHIBIT (buh27a03)** She then presented the committee with pictures of the 1997 installation problems in her manufactured home. **EXHIBIT (buh27a04)** She explained to the committee that for what she wound up paying, she could have had her home "stick built." She added the problems cannot be corrected without complete dismantling, and she will have to disclose the problems when she sells and the problems will lower the value of her home.

Ms. Smith said she purchased a home in 1997 and it was set on 8 stands but should have been set on 16. She asked it to be reset and have 8 more stands. She said the ceiling tiles and walls were coming apart, and the insulation was showing through. To get the additional stands she had to hire an attorney she could not afford and go to court. She testified she had been forced out of the home at least once due to falling trim and bathroom supports. She said this bill does not do enough but is a step in the right direction.

Mr. Doggett estimated that manufactured home sales is a \$50 million dollar industry in Montana. He said it is composed of retailers and dealers, but no manufacturers. There has been a slight decline of new home shipments in the past few years from 1700 in 1998 to 1400 in 2000. He did add that 40-45% of all new home sales in Montana are manufactured homes. He told the committee the people who did the bad work described to them were not members of his organization and are now out of business. He told them also that if a code for manufactured homes was not adopted by each state in the next five years, they must use HUD regulations for training, licensing and inspection. He added **REP. LAWSON** had done a lot of work on this bill and it was the right thing to do.

{Tape : 2; Side : B; Approx. Time Counter : 9.9}

Mr. Severson said often there is a lack of technical knowledge during periods of rapid growth. He would like to eliminate this and add integrity to manufactured home construction. He said manufactured homes now included double-wide, triple-wide and even two and three story homes, and require more knowledge to install.

{Tape : 2; Side : B; Approx. Time Counter : 12.2}

Mr. Skinner emphasized the individuals who spoke today had problems with dealers who have come and gone. He noted his company works with customers through sales, financing, set-up,

and warranty period. He said they had approximately 1 ½ years invested with each customer. He noted he was a member of the Building Codes Council, Department of Commerce.

{Tape : 2; Side : B; Approx. Time Counter : 15}

Ms. Carpenter said her organization included 1000 people who were dedicated to providing safe and affordable housing in Montana. She said this bill will put a safety net in place for their customers, and she had heard horror stories of home installation. She said she appreciated the fact her members would be allowed to move the homes they owned within their own mobile home park. However, she said, she would like clarification if her members would be exempt from the permit, and felt the intent of the bill was to make them exempt.

Mr. Rustad said he was an installer who had been in business 28 years. He said he had seen companies come and go. He noted homes are becoming more complex and must be set up according to specifications. He stated he thought it was great the state was doing something.

Opponents' Testimony: None

Informational Testimony:

Bill Jellison and **Steve Meloy** of the **Department of Commerce** stated they were available as informational witnesses.

Questions from Committee Members and Responses:

REP. LAWSON asked **Mr. Severson** why all of this was aimed at the installer and not the dealer since the dealer collected the money. **Mr. Severson** said many retailers employ their own crews, but when dealing with the manufacturers they say the problem is with the installation.

{Tape : 3; Side : A; Approx. Time Counter : 1}

Closing by Sponsor:

REP. LAWSON thanked the witnesses and industry representatives for their collaboration. He said this bill gives people "a door to knock on."

{Tape : 3; Side : A; Approx. Time Counter : 13.3}

HEARING ON HB399

Sponsor: REP. JOE MCKENNEY, HD49, Great Falls

Proponents: Kurt Almay, Department of Revenue
Neil Peterson, Department of Revenue
Kati Kintli, attorney
Gene Huntington, Department of Justice
Mark Staples, Montana Tavern Assn.
Christy Blazer, Montana Beer and Wine Wholesalers
Rick Miller, Gaming Assn. of Montana

Opponents: None

Opening Statement by Sponsor:

REP. MCKENNEY, HD49, Great Falls, said research had been undertaken through the cooperative effort of the 300-400 tavern owners in Montana to find ways to streamline and combine the application process for liquor licenses, while keeping in mind the public's right to protest. By changing some of the time constraints, 50 days is saved in the process. He called the bill a giant cooperative step and said it would increase work efficiency and costs. He noted the bill had two amendments.

Proponents' Testimony:

Mr. Almay said HB399 allows his department to improve customer service and the licensing process.

Mr. Peterson presented written testimony. **EXHIBIT (buh27a05)** He thanked REP. MCKENNEY for his efforts in bringing everybody to the table.

Mr. Kintli said he supported the bill and its amendments. He noted he represented many liquor license owners. He said the bill would be beneficial for estate planning purposes to parents with out-of-state children.

Mr. Huntington said he supported the bill with the addition of the Department of Revenue amendment. He noted he had been part of the group set up by REP. MCKENNEY.

Mr. Staples said he congratulated REP. MCKENNEY for attempting to make the rules as efficient and friendly as possible while still trying to regulate and administer them. He said the 10% amendment makes sense, and allows for the controlling entity to be a

resident. He said this does not mean the license cannot continue to have out-of-state investors or family out-of-state.

Ms. Blazer said she represented 30 businesses also licensed by the Department of Revenue. Her members distribute to 2000 retailers, also licensed. She called licensing "a two-way street," and a privilege which allowed the licensee to conduct business. In return, she said, her members assisted the Department of Revenue by enforcing and collecting taxes. She said this bill is an affirmation of this partnership.

Mr. Miller said he supported the bill.

Opponents' Testimony: None

Questions from Committee Members and Responses:

REP. LAIBLE said he understood why the streamlining was done, but he wanted to know why the funding was changed. **Mr. Peterson** said they can only spend what is appropriated to spend, and this allows them to take the appropriated amount and return the balance to the General Fund.

REP. GALLIK asked **REP. MCKENNEY** what would happen if the applicant needed more time. **REP. MCKENNEY** said the applicant can request an extension, and those are routinely given.

REP. JUNEAU asked **REP. MCKENNEY** why one of the requirements for a licensee was to be eligible to vote. **REP. MCKENNEY** said the requirement is "to be eligible to vote," not to be registered to vote, and this just means to be a citizen of Montana for 51% of the ownership. **Mr. Peterson** added this requirement has been there for some time and is not a change. **REP. MATTHEWS** said being eligible to vote was a nice way to say the owner could not be a felon. **REP. JUNEAU** said if that was the intent, the statute should be more specific.

Closing by Sponsor:

REP. MCKENNEY said HB399 was the result of individuals and regulatory agencies working together for the benefit of the public. He concluded by saying there is a pressure to improve products and service in the private sector, and this is not always true in the public sector. He noted this improvement took place in HB339.

EXECUTIVE ACTION ON HB437

Motion: REP. BOOKOUT-REINICKE moved that HB437 DO PASS.

Discussion:

REP. HIMMELBERGER said he had concerns that the proponents of this bill would all benefit financially from the bill. He said in the Billings area there are a lot of old buildings, some of which are simply used for storage by the owners. He said he was concerned about the amount of dollars these owners might have to spend to bring these elevators up to inspection. He also noted that, clearly, the deaths cited by the proponents were the cause of the people who died and not due to the elevators.

REP. KEANE said if he voted for the bill it would cost him \$5-10,000. He said it is about time to update his elevators and owners should either block them off or bring them up to date.

Vote: Motion HB437 carried 18-1 with Himmelberger voting no.

EXECUTIVE ACTION ON HB426

Motion: REP. GALVIN-HALCRO moved that HB426 DO PASS.

Discussion:

REP. BITNEY said this was not a bad bill but it put a lot of restrictions on free enterprise. He said a typical home inspector comes from a skilled background and can usually remedy the problems with less expense. He added the problem may preclude the sale if it is not done quickly. As a broker he said he does not recommend or refer home inspectors. Also he noted many work part-time.

REP. LAWSON moved the amendments submitted by the Department of Commerce. **Voice vote** on the amendments was **Unanimous, 19-0.**

Motion: REP. LAWSON moved that HB426 DO PASS AS AMENDED.

Discussion:

REP. BROWN said he had a problem with adding more rule-making authority. He also said he did not see a clamor of problems this

bill was needed to correct, and he did not think the bill was needed.

REP. BOOKOUT-REINICKE said when she heard a bill she wrote her impression on top. On this bill she had written , "No." On the back she said she had written. "It is hard enough to make a living in rural Montana, without adding more restrictions."

REP. MATTHEWS called this bill a big city problem, but it was not a problem in his district. He said also it was very hard to get a contractor in the summertime.

REP. LAIBLE said he opposed this bill because often the inspector is the most qualified person to know what needs to be done.

Vote: Motion that **HB426 DO PASS AS AMENDED failed 7-12 with Fritz, Gallik, Galvin-Halcro, Juneau, Keane, Lawson, and Tramelli voting aye.**

Substitute Motion/Vote: **REP. BITNEY** made a substitute motion to **TABLE HB426. Substitute motion carried 12-7 with Fritz, Gallik, Galvin-Halcro, Juneau, Keane, Lawson, and Tramelli voting no.**

ADJOURNMENT

Adjournment: 11:35 A.M.

REP. JOE MCKENNEY, Chairman

JANE NOFSINGER, Secretary

JM/JN

EXHIBIT (buh27aad)